

EXHIBIT 110

REDACTED

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Page 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA, :
et al., :
Plaintiffs :
v. : No. 1:23-cv-00108
GOOGLE, LLC, :
Defendants. :

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Monday, August 21, 2023

Video Deposition of CHRISTOPHER KOEPKE,
taken at the Law Offices of Paul, Weiss,
Rifkind, Wharton & Garrison LLP, 2001 K St NW,
Washington, DC, beginning at 9:35 a.m. Eastern
Standard Time, before Ryan K. Black, Registered
Professional Reporter, Certified Livenote
Reporter and Notary Public in and for the
District of Columbia

Job No. CS6043164

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	Page 2	Page 4
1 APPEARANCES:		1 THE VIDEOGRAPHER: Good morning. We are
2 UNITED STATES DEPARTMENT OF JUSTICE		2 going on the record at 9:35 a.m. on August 21st,
3 ANTITRUST DIVISION		3 2023. Please note that the microphones are
4 BY: KATHERINE CLEMONS, ESQ.		4 sensitive and may pick up whispering and private
5 VICTOR LIU, ESQ.		5 conversations. Please mute your phones at this
6 ALVIN CHU, ESQ.		6 time. Audio and video recording will continue to
7 MARK SOSNOWSKY, ESQ. - Via Zoom		7 take place unless all parties agree to go off the
8 450 5th Street, N.W.		8 record.
9 Washington, DC 20530		9 This is Media Unit 1 of the
10 202.514.2414		10 video-recorded deposition of Mr. Christopher
11 katherine.clemons@usdoj.gov		11 Koepke in the matter of United States, et al.,
12 victor.liu@usdoj.gov		12 versus Google, LLC, filed in the United States
13 alvin.chu@usdoj.gov		13 District Court Eastern District of Virginia
14 mark.sosnowsky@usdoj.gov		14 Alexandria Division, Case Number
15 Representing - The United States of America		15 1:23-cv-00108-LMB-JFA.
16 PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP,		16 My name is Orson Braithwaite,
17 BY: MARTHA L. GOODMAN, ESQ.		17 representing Veritext Legal Solutions, and I'm
18 HEATHER C. MILLIGAN, ESQ.		18 the videographer. The court reporter is Ryan
19 2001 K St NW,		19 Black, from the firm Veritext Legal Solutions.
20 Washington, DC		20 Counsel will now state their appearances
21 202.223.7341		21 and affiliations for the record.
22 mgoodman@paulweiss.com		22 MS. GOODMAN: Martha Goodman, from Paul
23 hmilligan@paulweiss.com		23 Weiss, on behalf of Google LLC.
24 Representing - Google LLC		24 MS. MILLIGAN: Heather Milligan, also on
25		25 behalf of Paul Weiss, for Google.
26 ALSO PRESENT:		
27 Orson Braithwaite - Legal Videographer		
28 Kenneth Whitley - Department of Health and Human		
29 Services		
	Page 3	Page 5
1 INDEX		1 MS. CLEMONS: Katherine Clemons, with
2 TESTIMONY OF: CHRISTOPHER KOEKPKE	PAGE	2 the Department of Justice, on behalf of the
3 By Ms. Goodman.....6		3 United States of America, CMS and the witness.
4 EXHIBITS		4 MR. LIU: Victor Liu, also with the
5 EXHIBIT DESCRIPTION PAGE		5 Department of Justice, on behalf of the United
6 Exhibit 65 a document Bates Numbered		6 States and CMS.
7 CMS-ADS-11906 through 11974...117		7 MR. CHU: Alvin Chu, on behalf of United
8 Exhibit 66 a document Bates Numbered		8 States.
9 CMS-ADS-23248 through 23337...136		9 MR. WHITLEY: Kenneth Whitley, Office of
10 Exhibit 67 a document Bates Numbered		10 General Counsel, Department of Health and Human
11 CMS-ADS-59892 through 59893...151		11 Services.
12 Exhibit 68 a document Bates Numbered		12 MS. GOODMAN: And could the folks
13 CMS-ADS-593107 through 593110..167		13 attending remotely please state your presence?
14 Exhibit 69 a document Bates Numbered		14 MR. SOSNOWSKY: Mark Sosnowsky,
15 CMS-ADS-183807 through 183811..181		15 Department of Justice, and I will be in and out
16 Exhibit 70 a document Bates Numbered		16 of this deposition remotely. So if you lose me,
17 CMS-ADS-529199 through 529200..190		17 please don't -- you can continue.
18 Exhibit 71 a document Bates Numbered		18 THE VIDEOGRAPHER: Thank you.
19 CMS-ADS-189390.....251		19 Would the court reporter please swear in
20 Exhibit 72 a document Bates Numbered		20 the witness?
21 CMS-ADS-64968 through 64971....258		21 * * *
22 Exhibit 73 a document Bates Numbered		22 Whereupon --
23 CMS-ADS-440295.....265		23 CHRISTOPHER KOEKPKE,
24 Exhibit 74 a document Bates Numbered		24 called to testify, having been first duly sworn
25 CMS-ADS-531032 through 531072..268		25 or affirmed, was examined and testified as

2 (Pages 2 - 5)

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	Page 146		Page 148
1		1	Q. Okay. And then in the middle of
		2	paragraph it states, "We will continue to partner
		3	with Google where we have continuously seen
		4	efficient engagement and reach among individuals
		5	who are in the market for health insurance."
4	MS. CLEMONS: Objection; form.	6	What do you understand that sentence to mean in
5	Foundation.	7	your capacity as the director of the Strategic
		8	Marketing Group?
		9	MS. CLEMONS: Objection; foundation.
		10	Form.
		11	THE WITNESS: That CMS will work with
		12	Weber Shandwick to purchase display services from
		13	Google in the next Open Enrollment period.
		14	BY MS. GOODMAN:
		15	Q. And what connection, if any, does that
		16	have to this efficient engagement that Weber
		17	Shandwick has continuously seen with Google?
14	MS. CLEMONS: Objection; form.	18	MS. CLEMONS: Objection; foundation.
15	Foundation.	19	THE WITNESS: In this case, we would
16	THE WITNESS: I would say -- I think the	20	have to talk to the person who wrote the proposal
17	simple answer is I don't know.	21	to get their full understanding of that.
18	BY MS. GOODMAN:	22	BY MS. GOODMAN:
19	Q. Okay. Can you turn to page ending in	23	Q. In your experience, has CMS continuously
20	261? Under OE10 Base Task 1, the last sentence	24	seen efficient engagement and reach using Google
21	of the paragraph reads, "Performance channels	25	products or services?
22	like display and social media will be optimized		
23	in realtime to drive email signup and enrollment		
24	conversions." Do you see that?		
25	A. I do.		
	Page 147		Page 149
1	Q. Okay. What do you understand that	1	MS. CLEMONS: Objection to form.
2	sentence to mean?	2	THE WITNESS: I would say we have seen
3	MS. CLEMONS: Objection; foundation.	3	significant reach, and we -- I don't generally
4	THE WITNESS: I didn't write the	4	use the term "efficient engagement," so I would
5	sentence. But if I used the sentence, I would	5	not say that.
6	mean it to mean, as we've already talked about	6	BY MS. GOODMAN:
7	optimization, as you -- maybe we'll talk about it	7	Q. What term would you use instead of
8	again -- that channels like display, like display	8	"efficient engagement"?
9	and social media, so not only display and social	9	MS. CLEMONS: Objection to form.
10	media, will be optimized in realtime to drive two	10	Foundation.
11	of our main goals, which is email signup or	11	THE WITNESS: I'd have to understand
12	enrollment conversions.	12	what they mean by "efficient engagement" in order
13	BY MS. GOODMAN:	13	to say what term I would use for that.
14	Q. And is an example of realtime	14	BY MS. GOODMAN:
15	optimization moving money between display and	15	Q. Okay. So do you have an un -- any
16	social media channels?	16	understanding of what "efficient engagement"
17	MS. CLEMONS: Objection; form.	17	means in this sentence?
18	Foundation.	18	A. It would be purely conjectural on my
19	THE WITNESS: It could be.	19	part.
20	BY MS. GOODMAN:	20	Q. Okay. Can you turn to Page ending in
21	Q. Okay. Can you turn to Page 264?	21	269?
22	Under the Channel and Placement Overview	22	A. Yes.
23	section on this page, five paragraphs down begins	23	Q. In the paragraph under Driving Media
24	Display Media. Do you see where I am?	24	Value and Savings, the author states that "They
25	A. Yes.	25	will work closely with Magna, the centralized

38 (Pages 146 - 149)

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1 deposition is over and that Google does not have 2 grounds to hold the deposition open. 3 MS. GOODMAN: Okay. Thank you for your 4 time, Mr. Koepke. 5 THE WITNESS: It was my pleasure. This 6 was fun. 7 THE VIDEOGRAPHER: Time is 6:23 p.m. 8 We're off the record. 9 (Deposition concluded -- 6:23 p.m.) 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	Page 290 1 Katherine Clemons Esq 2 Katherine.clemons@usdoj.gov 3 August 22nd, 2023 4 RE: United States, Et Al v. Google, LLC 5 8/21/2023, Christopher Koepke (#6043164) 6 The above-referenced transcript is available for 7 review. 8 Within the applicable timeframe, the witness should 9 read the testimony to verify its accuracy. If there are 10 any changes, the witness should note those with the 11 reason, on the attached Errata Sheet. 12 The witness should sign the Acknowledgment of 13 Deponent and Errata and return to the deposing attorney. 14 Copies should be sent to all counsel, and to Veritext at 15 (erratas-cs@veritext.com). 16 17 Return completed errata within 30 days from 18 receipt of testimony. 19 If the witness fails to do so within the time 20 allotted, the transcript may be used as if signed. 21 22 Yours, 23 Veritext Legal Solutions 24 25
1 C E R T I F I C A T E 2 3 I do hereby certify that I am a Notary 4 Public in good standing, that the aforesaid 5 testimony was taken before me, pursuant to 6 notice, at the time and place indicated; that 7 said deponent was by me duly sworn to tell the 8 truth, the whole truth, and nothing but the 9 truth; that the testimony of said deponent was 10 correctly recorded in machine shorthand by me and 11 thereafter transcribed under my supervision with 12 computer-aided transcription; that the deposition 13 is a true and correct record of the testimony 14 given by the witness; and that I am neither of 15 counsel nor kin to any party in said action, nor 16 interested in the outcome thereof. 17 18 WITNESS my hand and official seal this 19 22nd day o 20 21 22 23 24 25	Page 291 1 United States, Et Al v. Google, LLC 2 Christopher Koepke (#6043164) 3 E R R A T A S H E E T 4 PAGE____ LINE____ CHANGE_____ 5 _____ 6 REASON_____ 7 PAGE____ LINE____ CHANGE_____ 8 _____ 9 REASON_____ 10 PAGE____ LINE____ CHANGE_____ 11 _____ 12 REASON_____ 13 PAGE____ LINE____ CHANGE_____ 14 _____ 15 REASON_____ 16 PAGE____ LINE____ CHANGE_____ 17 _____ 18 REASON_____ 19 PAGE____ LINE____ CHANGE_____ 20 _____ 21 REASON_____ 22 _____ 23 _____ 24 Christopher Koepke Date 25

74 (Pages 290 - 293)

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